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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,480	02/19/2002	Morris Ostrowiecki		1749

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EXAMINER

LOPEZ, FRANK D

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,480

Applicant(s)

OSTROWIECKI, MORRIS

Examiner

F. Daniel Lopez

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 14 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 11-13, 15 and 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

Applicant's arguments filed December 22, 2004, have been fully considered but they are not deemed to be persuasive.

Applicant's argues that fig 9D shows a tail portion 75t, which is flexible and can be twisted around the bottom of the air outlet portion, so it fits within the circumference of the cylinder; and so claim 16 does not contradict claim 10. It appears that applicant is discussing the tube of the bicycle as the cylinder, not the cylinder (70) of the pump. Fig 9D clearly shows that the tail portion extends part the circumference of the pump cylinder (70), in both directions. Therefore, the 112 rejection of claim 16 is maintained.

Applicant's argues that it is not obvious to add the radial female connector of Ohashi to the pump of Wu (6,017,196), since if it were obvious, Wu (6,017,196) would have done so, since it is much easier to pump with a radial connector. Radial female and axial connectors are well known to be equivalents in the bicycle pump art, as shown by Ohashi and Wu (6,017,196). Therefore, one of ordinary skill in the bicycle pump art would recognize the interchangeability of the radial female and axial connectors, and therefore it would have been obvious to replace the axial connector of Wu (6,017,196) with a radial female connector.

Applicant's argues that Wu (6,017,196) is defective or at least incomplete, since there is nothing keeping the spring (13) and cap (14) from falling out. Patents mainly discuss the elements that are new, and do not need to discuss those elements that are old and well known. The fact that Wu (6,017,196) does not discuss how the end cap is held in place does not means that it is defective, only that any of a number of well known methods can be used to keep the cap attached to the cylinder.

Applicant's amendments to claims 14 and 19, if properly done (see below), would overcome the 112 rejections of these claims.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Amendment

The amendment to the claims filed on December 22, 2004 does not comply with the requirements of 37 CFR 1.121(c) because only the changes have been indicated (i.e. all the new claims have not been written in their entirety). Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR 1.121(c) which states:

(c) *Claims.* Amendments to a claim must be made by **rewriting the entire claim with all changes** (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the **status of every claim must be indicated** after its claim number by using one of the following identifiers in a parenthetical expression: **(Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered)**.

(1) *Claim listing.* All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1–5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required.* All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. **The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived.** Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the

Art Unit: 3745

immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Claim Rejections - 35 USC § 112

Claims 14, 16, 17 and 19 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14 line 2-4 "having a through hole...therebetween" is confusing, since there is already a through hole claimed and there is no disclosure of two through holes. Suggest that this limitation be deleted, as being redundant.

In claim 16 line 3 claims "a tail portion (75t)", but the disclosure of the tail portion (e.g. fig 9A) indicates that the tail portion extends past the circumference of the cylinder, and so contradicts the limitation of claim 10 last two lines.

Claim 19 should depend from claim 18, to give "said air pressure indicating means" of line 1-2 proper antecedent basis.

Claim 17 is indefinite, since it depends from claim 16.

Claim Rejections - 35 USC § 103

Claims 10, and 14 are rejected under 35 U.S.C. § 103 as being unpatentable over Wu (6,017,196) in view of Ohashi. Wu (6,017,196) discloses a bicycle hand air pump comprising a piston (12) mounted to another end of a hollow shaft (11), and fitting inside a cylinder (10); means (18) supporting a handle (17) on one end of the hollow shaft, so that the handle can swivel; an end cap (15) mounted to one end of the

Art Unit: 3745

cylinder, having a hole (1501) formed through the center for the hollow shaft and allow air to pass through; an air outlet portion (14) mounted to the other end of the cylinder having a through hole (141) formed therein, extending from a top surface to a bottom surface; wherein the air outlet portion, the handle supporting means and the end cap has no portion protruding beyond a circumference of the cylinder (see e.g. fig 1; note that element 161 is not considered part of the end cap); but does not disclose that the through hole extends to a female connector, facing in a radial direction of the cylinder.

Ohashi teaches, for a bicycle hand air pump comprising an air outlet portion (11) mounted to another end of a cylinder (9) having a through hole formed therein, extending from a top surface; that the through hole extends to a female connector, facing in a radial direction of the cylinder.

Since the through holes in the outlet portions of Wu (6,017,196) and Ohashi are functionally equivalent in the piston art; it would have been obvious at the time the invention was made to one having ordinary skill in the art to make the through hole of Wu (6,017,196) extend to a female connector, facing in a radial direction of the cylinder, as taught by Ohashi, as a matter of engineering expediency.

Claim 18 is rejected under 35 U.S.C. § 103 as being unpatentable over Wu (6,017,196) in view of Ohashi, as applied to claim 1 above, and further in view of Huang. The modified Wu (6,017,196) discloses all of the elements of claim 18, but does not disclose that the pump includes air pressure indicating means.

Huang teaches, for a hand air pump comprising a piston (21) mounted to an end of a hollow shaft (2), and fitting inside a cylinder (1); that the pump includes air pressure indicator (including 20 and the scale on the shaft 2), equivalent to applicant's air pressure indicating means, for the purpose of sensing pressure generated by the pump.

Since Wu (6,017,196) and Huang are both from the same field of endeavor (hand pumps), the purpose disclosed by Huang would have been recognized in the pertinent art of Wu(6,017,196). It would have been obvious at the time the invention was made to one having ordinary skill in the art to include an air pressure indicator with the pump of

the modified Wu (6,017,196), equivalent to applicant's air pressure indicating means, as taught by Huang, for the purpose of sensing pressure generated by the pump.

Conclusion

Claims 11-13, 15 and 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16, 17 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is **limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.**

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of \$250.00. If a Notice of Appeal is filed, a shortened statutory period for filing an Appeal Brief, which discusses why the rejections are appealed, would be set to expire TWO MONTHS from the filing of the Notice of Appeal.

If applicant should desire to file an amendment, **entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier.**

Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to

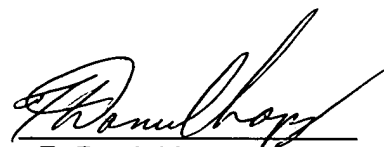
Art Unit: 3745

the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Lopez whose telephone number is 571-272-4821. The examiner can normally be reached on Monday-Thursday from 6:15 AM -3:45 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ed Look, can be reached on 571-272-4820. The fax number for this group is (703) 872-9302. Any inquiry of a general nature should be directed to the Help Desk, whose telephone number is 1-800-PTO-9199.

A handwritten signature in black ink, appearing to read 'F. Daniel Lopez', is written over a horizontal line.

F. Daniel Lopez
Primary Examiner
Art Unit 3745
February 18, 2005